

A or Subpart B of this part, are required to be filed by or in behalf of such employee, such form or forms may be filed by or in behalf of the individual or individuals to whom benefits accrued to such employee, but not yet paid at death, would be payable in accordance with the provisions of section 2 (g) of the act. Such form or forms shall be filed within the time prescribed in § 335.104 or § 335.204 and in such cases the word "employee" as last used in §§ 335.104 (b) and 335.204 (b) and (c), and as used in §§ 335.104 (d) (3) and 335.204 (e) (3), shall include the individual or individuals by or in behalf of whom the form is filed. [Board Order 48-113, 13 F.R. 2837, May 27, 1948]

## PART 336—EXHAUSTION OF RIGHTS TO BENEFITS<sup>1</sup>

- Sec.  
 336.1 Statutory provisions.  
 336.2 Exhaustion of rights to unemployment benefits.  
 336.3 Exhaustion of right to benefits within meaning of Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961.

<sup>1</sup> Board Order 68-72, 33 F.R. 11116, Aug. 6, 1968.

Sec.  
 336.4 Exhaustion of rights to sickness benefits.

**AUTHORITY:** The provisions of this Part 336 issued under sec. 12, 52 Stat. 1107, as amended; 45 U.S.C. 362.

**SOURCE:** The provisions of this Part 336 contained in Board Order 59-131, 24 F.R. 5019, June 20, 1959, 24 F.R. 5118, June 23, 1959, unless otherwise noted.

### § 336.1 Statutory provisions.

Section 2(c) of the Railroad Unemployment Insurance Act, as amended, provides that:

\* \* \* with respect to an employee who has 10 or more years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, who did not voluntarily retire and (in a case involving exhaustion of rights to benefits for days of unemployment) did not voluntarily leave work without good cause, and who had current rights to normal benefits for days of unemployment or days of sickness in a benefit year but has exhausted such rights, the benefit year in which such rights are exhausted shall be deemed not to be ended until the last day of the extended benefit period determined under the following schedule, and the maximum number of days of, and amount of payment for, unemployment or sickness (depending on the type of benefit rights exhausted) within such benefit year for which benefits may be paid to the employee shall be enlarged to include all compensable days of unemployment or days of sickness, as the case may be, within such extended benefit period:

The extended benefit period shall begin on the first day of unemployment or sickness, as the case may be, following the day on which the employee exhausted his then current rights to normal benefits for days of unemployment or days of sickness and shall continue for successive 14-day periods (each of which periods shall constitute a registration period) until the number of such 14-day periods totals—

If the employee's "years of service" total—

10 and less than 15-----	7 (but not more than 65 days).
15 and over-----	13.

but no such extended benefit period shall extend beyond the beginning of the first registration period in a benefit year in which the employee is again qualified for benefits in accordance with section 3 of this Act on the basis of compensation earned after the first of such successive 14-day periods has begun. \* \* \*

Section 303(b) of Public Law 86-28, 73 Stat. 31, provides that:

An employee who has less than ten years of service as defined in section 1(f) of the Railroad Retirement Act of 1937, and who has after June 30, 1957, and before April 1, 1959, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his rights to unemployment

benefits, shall be paid unemployment benefits for days of unemployment, not exceeding sixty-five, which occur in registration periods beginning on or after June 19, 1953, and before July 1, 1959, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act \* \* \*

Section 2 of the Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961 provides that:

An employee as defined in the Railroad Unemployment Insurance Act who has, after June 30, 1960, and before April 1, 1962, exhausted (within the meaning prescribed by the Railroad Retirement Board by regulation) his right to unemployment benefits under the Railroad Unemployment Insurance Act, shall be paid unemployment benefits in accordance otherwise with the provisions of such Act for days of unemployment, not exceeding sixty-five, and not exceeding in the aggregate, an amount equal to 50 per centum of the total amount of unemployment benefits which were payable to him in the benefit year in which he last exhausted his rights before making his first claim under this Act, which occur in registration periods, as defined in the Railroad Unemployment Insurance Act, beginning on or after [April 8, 1961] the fifteenth day after the date of enactment of the Temporary Extended Unemployment Compensation Act of 1961, and before April 1, 1962, and which would not be days with respect to which he would be held entitled otherwise to receive unemployment benefits under the Railroad Unemployment Insurance Act \* \* \*.

[Board Order 59-131, 24 F.R. 5019, June 20, 1959, as amended by Board Order 61-50, 26 F.R. 3607, Apr. 27, 1961; Board Order 68-72, 33 F.R. 11116, Aug. 6, 1968]

**§ 336.2 Exhaustion of rights to unemployment benefits.**

An employee shall be deemed to have exhausted his current rights to normal benefits for days of unemployment, within the meaning of Section 2(c) of the Railroad Unemployment Insurance Act, and to have exhausted his rights to unemployment benefits, within the meaning of Section 303(b) of Public Law 86-28, 73 Stat. 31, if:

(a) He has received unemployment benefits for 130 days of unemployment in the benefit year, or

(b) He has received unemployment benefits in the benefit year equal to his base-year compensation, or

(c) At the end of a normal benefit year during which he was qualified for benefits he has received less than the maximum unemployment benefits for the benefit year and he is not qualified for benefits in the next succeeding benefit year.

[Board Order 59-131, 24 F.R. 5019, June 20, 1959; 24 F.R. 5118, June 23, 1959, as amended by Board Order 68-72, 33 F.R. 11116, Aug. 6, 1968]

**§ 336.3 Exhaustion of right to benefits within meaning of Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961.**

An employee shall be deemed to have exhausted his right to unemployment benefits under the Railroad Unemployment Insurance Act after June 30, 1960, and before April 1, 1962, within the meaning of the Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961, if:

(a) He has exhausted his current rights to normal benefits for days of unemployment in accordance with § 336.2 (a) or (b), an extended benefit period is not established under section 2(c) of the Railroad Unemployment Insurance Act because he has less than ten years of service or because he voluntarily left work without good cause or voluntarily retired, and the last day for which unemployment benefits were paid is after June 30, 1960, and before April 1, 1962; or

(b) He has exhausted his current rights to normal benefits for days of unemployment in accordance with § 336.2 (c), an extended benefit period is not established under section 2(c) of the Railroad Unemployment Insurance Act because he has less than ten years of service or because he voluntarily left work without good cause or voluntarily retired, and the last day of the benefit year, or the last day in the benefit year for which unemployment benefits were paid, whichever is later, is after June 30, 1960, and before April 1, 1962; or

(c) An extended benefit period established under section 2(c) of the Railroad Unemployment Insurance Act in his case has ended, he has no current rights to normal benefits for days of unemployment, and the last day of the extended benefit period is after June 30, 1960, and before April 1, 1962; or

(d) Benefits have been held to be payable for 65 days in an extended benefit period of seven registration periods established under section 2(c) of the Railroad Unemployment Insurance Act in his case, and the last day for which benefits are payable is before the last day of the extended benefit period and is after June 30, 1960, and before April 1, 1962.

[Board Order 61-50, 26 F.R. 3607, Apr. 27, 1961, as amended by Board Order 61-113, 26 F.R. 6270, July 13, 1961]

### § 336.4 Exhaustion of rights to sickness benefits.

An employee shall be deemed to have exhausted his current rights to normal benefits for days of sickness, within the meaning of section 2(c) of the Act, if:

(a) He has received sickness benefits for 130 days of sickness in the benefit year, or

(b) He has received sickness benefits in the benefit year equal to his base-year compensation, or

(c) At the end of a normal benefit year during which he was qualified for benefits he has received less than the maximum sickness benefits for the benefit year and he is not qualified for benefits in the next succeeding benefit year. [Board Order 68-72, 33 F.R. 11116, Aug. 6, 1968]

## PART 340—RECOVERY OF BENEFITS

### Sec.

- 340.1 Statutory provisions.
- 340.2 Amount recoverable.
- 340.3 When amounts recoverable to be recovered.
- 340.4 Methods of recovery of amounts recoverable.
- 340.5 Recovery by cash payment.
- 340.6 Recovery by setoff.
- 340.7 Recovery by deduction in computation of death benefit under Railroad Retirement Act of 1937.
- 340.8 Recovery by adjustment in connection with subsequent payments under the Railroad Retirement Act.
- 340.9 Effect of adjustment in connection with subsequent payments.
- 340.10 Waiver of recovery.
- 340.11 Waiver of methods of recovery.
- 340.12 Waiver not a matter of right.
- 340.13 Compromise of amounts recoverable.
- 340.14 Factors due to be considered in a compromise.
- 340.15 Suspension or termination of collection action.

**AUTHORITY:** The provisions of this Part 340 issued under sec. 12, 52 Stat. 1107, as amended; 45 U.S.C. 362.

**SOURCE:** The provisions of this Part 340 contained in Board Order 27-22, 32 F.R. 3341, Feb. 28, 1967, unless otherwise noted.

### § 340.1 Statutory provisions.

(a) Section 2(d) of the Railroad Unemployment Insurance Act provides that:

If the Board finds that at any time more than the correct amount of benefits has been paid to any individual under this Act or a payment has been made to an individual not entitled thereto (including payments made

prior to July 1, 1940) recovery by adjustments in subsequent payments to which such individual is entitled under this Act or any other Act administered by the Board may, except as otherwise provided in this subsection, be made under regulations prescribed by the Board. If such individual dies before recovery is completed, recovery may be made by setoff or adjustments, under regulations prescribed by the Board, in subsequent payments due, under this Act or any other Act administered by the Board to the estate, designee, next of kin, legal representative, or surviving spouse of such individual, with respect to the employment of such individual.

Adjustments under this subsection may be made either by deductions from subsequent payments or, with respect to payments which are to be made during a lifetime or lifetimes, by subtracting the total amount of benefits paid in excess of the proper amount from the actuarial value, as determined by the Board, of such payments to be made during a lifetime or lifetimes and recertifying such payments on the basis of the reduced actuarial value. In the latter case recovery shall be deemed to have been completed upon such recertification.

There shall be no recovery in any case in which more than the correct amount of benefits has been paid to an individual or payment has been made to an individual not entitled thereto (including payments made prior to July 1, 1940) who, in the judgment of the Board, is without fault when, in the judgment of the Board, recovery would be contrary to the purpose of this Act or would be against equity or good conscience.

No certifying or disbursing officer shall be held liable for any amount certified or paid by him in good faith to any person where the recovery of such amount is waived under the third paragraph of this subsection or has been begun but cannot be completed under the first paragraph of this subsection.

(b) Section 2(f) of the Act provides, in part, that:

If (1) benefits are paid to any employee with respect to unemployment or sickness in any registration period, and it is later determined that remuneration is payable to such employee with respect to any period which includes days in such registration period which had been determined to be days of unemployment or sickness, and (11) the person or company from which such remuneration is payable has, before payment thereof, notice of the payment of benefits upon the basis of days of unemployment or sickness included in such period, the remuneration so payable shall not be reduced by reason of such benefits but the remuneration so payable, to the extent to which benefits were paid upon the basis of days which had been determined to be days of unemployment or sickness and which are included in the period for which such remuneration is payable, shall be held